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July 7, 1992

VIA HAND DELIVERY

Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

ORIGINAL
FILE

Re: Comments of California Payphone
Association in CC Docket No. 92-77

Dear Ms. Searcy:

Enclosed are an original and ten copies of the Comments of California Payphone Association ("CPA") in the referenced proceeding, submitted herewith for filing and distribution to each of the Commissioners. Once accepted for filing, please file-stamp one of the copies and return it to the messenger from our offices.

Please address any questions or comments to the undersigned counsel.

Very truly yours,

GRAHAM & JAMES

By 
Richard L. Goldberg

Attorneys for
CALIFORNIA PAYPHONE ASSOCIATION

Enclosures

cc: All Commissioners (w/encl.)
Attached Service List (w/encl.)
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Before the
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
BILLED PARTY PREFERENCE)
FOR 0+ INTERLATA CALLS)
_____)

CC Docket No. 92-77

COMMENTS OF CALIFORNIA PAYPHONE ASSOCIATION

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July 7, 1992

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Before the
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Washington, D.C. 20554

In the Matter of)	
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BILLED PARTY PREFERENCE)	CC Docket No. 92-77
FOR 0+ INTERLATA CALLS)	
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COMMENTS OF CALIFORNIA PAYPHONE ASSOCIATION

California Payphone Association ("CPA") hereby submits its Comments in the above-captioned proceeding, pursuant to the Notice of Proposed Rulemaking ("NPRM") issued by the Federal Communications Commission ("Commission") on May 8, 1992. In its NPRM, the Commission requested comments on the costs and benefits of Billed Party Preference ("BPP"). CPA hereby submits its comments on several issues relating to competition in the provision of payphone service.

SUMMARY OF CPA'S POSITION

End users currently benefit from competition in the provision of payphones through lower rates and the increased availability of payphones at previously unserved locations. CPA believes that BPP could drastically impair the ability of competitive payphone providers to compete in the payphone services market by eliminating commissions from operator service providers on 0+ calls, which are a major source of revenue for competitive payphone providers. CPA believes that BPP would give local exchange carriers an unfair advantage in competing for station agent locations, thus giving them the opportunity to squeeze

competitive payphone providers out of the market. The advent of unblocked "dial-around" access code calling has removed the impetus for implementing BPP and can provide the benefits of BPP without incurring its costs. An investigation of relevant cost recovery issues should be undertaken before the Commission determines whether to implement BPP. In the event that the Commission decides to implement BPP, the Commission should require that fair and adequate compensation be paid to competitive payphone providers for any call to which BPP applies.

**I. BPP WOULD SEVERELY LIMIT THE ABILITY OF
COMPETITIVE PAYPHONE PROVIDERS TO COMPETE IN
THE PROVISION OF PAYPHONES, TO THE DETRIMENT
OF THE PUBLIC.**

Many of the benefits from competition in the provision of payphones have accrued to end users. In the service area of Pacific Bell, 80% of competitively owned payphone installations during the past several years has been at new locations that were not previously served by the local exchange carrier ("LEC"). This figure indicates that end users are benefitting from competition in the provision of payphones because end users are being served by new locations that were not previously available to them. Also, end users have benefitted from lower payphone rates in California as the result of competition in the provision of payphone services. The current rate for local calling is \$0.20, reduced from the previous standard of \$0.25 for competitively owned payphones pursuant to a settlement strongly supported by CPA and approved by the California Public Utilities Commission ("CPUC") in June 1990.

CPA is convinced that BPP would drastically change the ability of its members to compete in the payphone services market. In its NPRM, the Commission correctly recognized that

Competitive payphone providers have found a niche for themselves in the marketplace largely by paying to premises owners commissions on 0+ and coin traffic originating from each payphone. Competitive payphone providers fund these commissions with coin deposits and with 0+ commissions that they receive from the presubscribed [operator service provider ("OSP")] for 0+ traffic.

NPRM, at para. 28. The Commission also correctly concluded that BPP "would effectively eliminate OSP commissions on 0+ traffic." Id. The elimination of these commissions would severely hamper the placement of a large majority of payphones, particularly those at locations with large volumes of 0+ calling. In California, a study shows that typical payphones generate approximately one-third of their total revenues from 0+ calling.

Competitive payphone providers that employ store and forward phones would also be harmed by the implementation of BPP. These payphones often provide value-added services, such as voice messaging. Investment in store and forward equipment by competitive payphone providers is justified by the long-distance revenues received at these stations. The reduction of revenues flowing to competitive payphone providers anticipated as a result of BPP and the elimination of 0+ commissions could jeopardize the continued availability of store and forward equipment and the new services such equipment makes available.

**II. BPP WOULD PROVIDE AN UNFAIR ADVANTAGE TO LECs
IN THE PROVISION OF PAYPHONES WITHIN THEIR
SERVICE AREAS.**

BPP would afford entrenched LECs an unfair advantage in providing payphone services in their service areas, to the detriment of competitive payphone providers and the general public. In its NPRM, the Commission seems to assume that BPP would not affect the level of commissions paid to station agents. See NPRM, at para. 28. In fact, BPP could create a disastrous dichotomy between the commissions paid to station agents by LECs and the commissions that competitive payphone providers could afford to pay.

At least where the LEC is bound to provide equal access, as in the case of the Bell Operating Companies and GTE, BPP will not cause any loss of revenue to the LEC. Accordingly, LECs would have no particular incentive to diminish commission payments. However, BPP would significantly reduce the revenue available to competitive payphone providers from 0+ traffic, hence diminishing the pool of revenues from which they could afford to pay commissions to premises owners. BPP thus would give LECs a great advantage in competing for station agent locations. CPA expects LECs would take advantage of this opportunity to squeeze competitive payphone providers out of the market. In six years of observing LECs' commission payment practices, CPA has seen no evidence to support a contrary expectation. Clearly, such a result would not be in the public interest.

III. CONCERNS WHICH ORIGINALLY FUELED THE BPP DEBATE HAVE BEEN SUBSTANTIALLY LESSENER BY THE UNBLOCKING OF ACCESS CODE DIALING, THUS OBVIATING THE NEED FOR BPP.

When BPP was first considered several years ago, there was justifiable concern that end users at pay stations were not able to access their long-distance interexchange carrier ("IXC") of choice. CPA believes that there is much less cause for concern today, especially in light of recent Commission action in CC Docket No. 91-35 regarding operator service access. See Report and Order, 6 FCC Rcd. 4736 (1991).

CPA notes that independent of activity at the federal level, the CPUC has required all payphones providers in California to provide unfettered access to 950 and 800 access codes for some time. Pursuant to CPUC Decision No. 90-06-018 (June 6, 1990), California's payphone providers have been required to utilize operator services that provide dialing instructions for 950, 10XXX, or 800 access codes for interLATA 0+ calls. As of October 1, 1991, all California payphone providers have been required to unblock access to 10XXX as well.

California has a self-enforcement program through which competitive payphone providers work in concert with the CPUC, the major LECs and a major consumer group to handle and respond to complaints and to monitor the conformance of independent payphones to rigorous service, quality and performance standards. The enforcement program has been operational since 1990 in portions of the state and began covering the entire state on June 1, 1992. CPA enthusiastically supports the enforcement program and is proud to be an active participant in it. This program

specifically covers enforcement of the unblocking of access to 10XXX.

CPA believes that as a result of these various efforts, Californians have come to expect that access code dialing will be available at privately owned payphones. It also appears to CPA that, given the huge marketing efforts of the larger IXC's, most consumers are now aware of access codes. A number of CPA's members report that approximately 25% of coinless calls placed at their pay stations are 10XXX access code calls. This figure illustrates customers' familiarity with access code dialing. CPA contends that as customers already have ready access to their IXC of choice, the impetus that brought the BPP proposal to the forefront has been satisfied.

IV. THE BENEFITS SOUGHT BY THE COMMISSION CAN BE OBTAINED WITHOUT INCURRING THE COSTS OF IMPLEMENTING BPP.

In its NPRM, the Commission requested comments on whether some or all of the benefits of BPP might be obtainable through alternative, less costly technologies. CPA believes that the major benefits the Commission refers to are: (1) the ability of end users to easily access their IXC of choice; (2) the consequent ability of end users to pay interexchange rates to which they are accustomed; and (3) the fruits of competition, such as the increased availability of payphones and innovative telecommunications services to the public.

CPA reiterates its earlier comments in Section IV. CPA accepts the appropriateness of the unblocking of access code dialing. Moreover, CPA believes that the unblocking requirements

previously set forth by the Commission in CC Docket No. 91-35, accompanied by the establishment of appropriate levels of per-call (and, on an interim basis, per-month) compensation to competitive payphone providers, offer the benefits which the Commission seeks without the costly technological overhaul that would be necessary to implement BPP.

With respect to the second benefit alluded to above, CPA believes that the market should be permitted to continue operating with respect to OSPs' rates. As an alternative, should the Commission determine after a full investigation that federal regulation of OSPs' rates is necessary, CPA would suggest requiring OSPs to adhere to a rate cap at a level similar to that which customers expect to pay, while taking into account OSPs' different cost structures. CPA notes that in California, pursuant to a settlement agreement approved by the CPUC in 1990, OSPs have adhered to a rate cap for intrastate interLATA calls, which has been effectively enforced by a process for screening billing records. Under either scenario, CPA believes that no need for BPP has been demonstrated.

**V. A THOROUGH EXAMINATION OF CARRIERS' PROPOSALS
FOR RECOVERING THE COSTS OF BPP SHOULD BE
UNDERTAKEN IN THIS PROCEEDING.**

The cost estimates which are already part of the record in this proceeding vary widely in amount, but offer a hint of the enormous cost that would be required to implement and operate BPP. CPA strongly urges that the Commission determine the specific means for cost recovery prior to determining whether to implement BPP. The instant proceeding is the appropriate forum

in which to determine exactly how carriers would be allowed to recover the costs of implementing BPP and who must pay for the implementation and operation of this program.

It is CPA's understanding that the Commission seeks comments on how costs associated with the implementation of BPP are likely to affect operator service rates paid by consumers. See NPRM, at para. 25. CPA also understands that BPP would qualify as a "new" service under LEC price caps. It is unclear to CPA how these factors would translate into cost recovery, specifically in the form of higher rates.

For example, many of the steps envisioned in the BPP process seem to involve Line Information Data Base ("LIDB") transactions. It is CPA's understanding that portions of LECs' LIDB services will be unregulated. This raises several important questions which CPA hopes will receive the Commission's attention:

- 1) Would a portion of the costs of implementing BPP be allocated to a LEC's LIDB service, and if so, what portion?
- 2) Would the Commission require LECs to introduce a new tariffed access product to cover any portion of the costs associated with BPP?
- 3) Would a portion of the costs of implementing BPP be allocated to a LEC's tariffed operator services, and if so, what portion?

4) Would the Commission institute an end user charge payable by all access line subscribers, comparable to the End User Common Line Charge, to cover any portion of the costs associated with BPP?

CPA will reserve comment on the appropriate cost recovery mechanisms until cost recovery proposals have been submitted to the Commission. CPA urges the Commission to investigate fully these and other relevant cost recovery issues and allow further comment prior to any decision to adopt or implement BPP.

VI. ADDITIONAL CONCERNS.

According to the NPRM, some LECs contend that BPP could increase access times on 0+ calls by up to four seconds per call, but implementation of Signalling System 7 and Automated Alternate Billing Services would eliminate this increase. See NPRM, at para. 27. CPA has serious reservations about the accuracy of these estimates. First, CPA believes that the four-second estimate may only anticipate the required LIDB transactions and may ignore transactions necessary to handle calls that necessitate live operator intervention. Second, it is unclear whether this estimate includes the time needed by the LEC to determine how and to whom to bill the call. CPA suggests that the Commission conduct a thorough review of the LECs' schedules for implementation of SS7, rather than accept as fact without proof the LECs' prediction that SS7 implementation will be widespread and will reduce access time in the majority of central offices.

CPA has additional concerns regarding the operation of BPP. For example, it remains to be seen how the implementation of BPP will affect current access arrangements for OSPs. Further, CPA questions the much-touted "convenience" of BPP, particularly in situations where customers attempt to place calls for which their billing preferences either are unavailable or are not readily apparent to the LEC operator. CPA is not convinced that BPP is any less cumbersome for the end user than the current method of dial-around access and default carriage by the presubscribed IXC or OSP. Such calls probably would require the customer to provide his or her billing information or phone number repeatedly, much to the end user's consternation. As is the case with any new service offering, the Commission should take a hard look at the problems likely to be associated with the everyday operation of BPP before approving BPP in principle or moving toward its implementation.

**VII. COMPETITIVE PAYPHONE PROVIDERS WILL REQUIRE
ALTERNATIVE REVENUE SOURCES IN THE FORM OF
COMPENSATION IF BPP IS IMPLEMENTED.**

Assuming arguendo that the Commission decides to implement BPP, to whatever extent and in whatever form, the Commission should concurrently mandate that compensation be paid to competitive payphone providers for any call to which BPP applies. The Commission itself has recognized that the compensation mechanism adopted for dial-around calls in CC Docket No. 91-35 also could apply to BPP calls originating from competitive payphone providers' pay stations. Second Report and Order, CC Docket No. 91-35, at n.23. CPA strongly urges the Commission, in the context

of BPP, to require IXCs to compensate competitive payphone providers for all 0+ calls.

As discussed in Section I above, competitive payphone providers stand to lose a very substantial source of revenue under a BPP regime with the elimination of commissions on 0+ calls. To this point, the market has recognized that competitive payphone providers deserve compensation for their role in originating such calls. If the Commission decides to obliterate the economic forces which thus far have driven the competitive payphone industry, it should be prepared to step into the vacuum it will thereby create with a plan to replace this vital revenue source. Concerns for fairness and equity dictate that competitive payphone providers be provided with compensation for this proposed taking of a substantial source of their livelihood.

VIII. CONCLUSION.

For the reasons stated above, CPA respectfully requests that Billed Party Preference be neither approved nor implemented by the Commission. In the event that Billed Party Preference is implemented to any extent, the Commission should compensate private payphone providers for all 0+ calls placed from their pay

stations, and take such other actions as are consistent with
CPA's foregoing comments.

Respectfully submitted,

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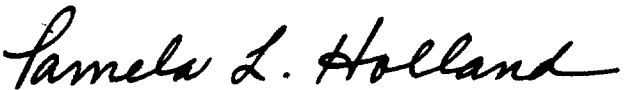
July 7, 1992

CERTIFICATE OF SERVICE

I, Pamela L. Holland, certify that I have this day caused the foregoing **Comments of California Payphone Association** to be served on the parties of interest by sending a copy by United States mail, first-class, postage prepaid, to all parties on the attached service list.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 7, 1992, at San Francisco, California.



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